

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

BRANDON NOOSBOND,

Defendant and Appellant.

B204581

(Los Angeles County
Super. Ct. No. LA048135)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Darlene E. Schempp, Judge. Affirmed.

Kelly M. Cronin, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Brandon Noosbond appeals from the judgment entered after revocation of probation granted following his pleas of no contest to first degree residential burglary (Pen. Code, § 459),¹ two counts of receiving stolen property (§ 496, subd. (a)), second degree burglary of a vehicle (§ 459) and forgery (§ 475, subd. (b)), and his admission that he had previously served a prison term within the meaning of section 667.5, subdivision (b). The trial court sentenced Noosbond to nine years, eight months in prison. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Facts.

At approximately 11:00 a.m. on January 21, 2005, Los Angeles Police Officer Jason Good received a telephone call from Wyatt Payne. Payne reported that someone had broken into his parked truck and taken his wallet, which contained \$1,500 in cash, the car's stereo system and several compact discs. Payne had not given anyone permission to take any of the items from his truck.

At approximately 10:00 a.m. on January 23, 2005, Joan Powers parked her 1998 Cadillac in a church parking lot on Sherman Way in Los Angeles County. When Powers discovered that someone had broken the front passenger's side window of her car, Los Angeles Police Officer Jude Bella went to investigate. Powers informed Bella that her purse, which contained her driver's license and several credit cards, had been taken

¹ All further statutory references are to the Penal Code unless otherwise indicated.

from inside her locked car. Powers had not given anyone permission to enter her car or take her purse.

At approximately 4:00 a.m. on January 27, 2005, Los Angeles Police Officer Matthew Wortman and other officers responded to a call directing them to 6614 Moorcraft Avenue in the County of Los Angeles. There, Wortman met two women, Theresa Trujillo and Brianne Balsz. Noosbond was also there, standing in the driveway behind a car. Surrounding Noosbond was “a whole bunch of personal property” including a backpack.

Wortman and his partner interviewed Balsz and Trujillo. Balsz indicated that she had walked into the bedroom where Noosbond had been staying as a guest and had seen her grandfather’s Smith and Wesson revolver laying on the bed next to Noosbond. Balsz questioned Noosbond about the gun, asking what he was doing with it and why it was not “where it was supposed to be” in Balsz’s aunt’s bedroom. The two began to argue and Balsz believed Noosbond was intoxicated, although he was not supposed to be drinking alcoholic beverages while at the house. Noosbond placed the gun in his backpack, then turned away for a moment. Balsz took this opportunity to retrieve the gun and put it back in her aunt’s room.

Outside, on the driveway, officers searched Noosbond and recovered a driver’s license and credit cards in the name of Myrna Hartley, a credit card in the name of Wyatt Payne, a driver’s license in the name of Laurant Diemer and a driver’s license and credit cards in the name of Sam Nosrati. Inside Noosbond’s backpack was a fully loaded Glock handgun and a .40 caliber magazine.

From inside the room where Noosbond had been staying officers recovered property which did not belong to him, including checks in the name of Wyatt Payne. In particular, they found check No. 1115 made out to Walley's. There was a receipt showing a charge to a credit card belonging to Davida Kaplan and numerous "salsa C.D.'s." Officers also found computer equipment and women's shoes later determined to have been taken during the burglary of the home of Myrna Hartley.

Noosbond was taken into custody and advised of his rights pursuant to *Miranda*.² He indicated that he understood his rights and agreed to waive them. He was then interviewed by Robert Runnels, a burglary detective assigned to Noosbond's case. Noosbond told the detective that he had been having problems with alcohol and Klonopin addiction and had been "blacking out[,] [s]o if [the officer] believed he committed a burglary, it was probably true." Noosbond then volunteered that he had put the computer in the back of a car. When asked how he got into Myrna Hartley's house, Noosbond said, " 'Through a rear door that was open, unlocked.' "

Runnels interviewed several victims, including Myrna Hartley. Hartley told the officer that on January 25, 2005, a wallet, driver's license, credit cards, computer and some shoes had been taken from her home on Allentown Street. Hartley believed the perpetrator of the crime had entered the house through a back window or door. In an

² *Miranda v. Arizona* (1966) 384 U.S. 436.

interview, Laurant Diemer told the detective that during the early morning hours of January 21, 2005, his driver's license and credit cards had been taken from his Chevy Suburban while it was parked in the driveway of his home. Runnels also interviewed Davida Kaplan. She told the detective that on January 21 or 22, 2005, some salsa C.D.s had been taken from the trunk of her car while it was parked in Calabasas.

On the morning of January 27, 2005, Los Angeles Police Detective Michael Oliver spoke with Noosbond. Noosbond admitted taking a large sum of money from a vehicle owned by Joan Powers. He remembered that her car had been locked and parked in a church parking lot. Noosbond indicated he had taken items from other cars as well.

2. Procedural History.

On May 9, 2005, Noosbond was charged by information with one count of first degree burglary (§ 459) (count one), two counts of the theft of access card account information (§ 484e, subd. (d)) (counts two and five), two counts of receiving stolen property (§ 496, subd. (a)) (counts three and four), one count of second degree burglary (§ 459) (count six), one count of possession of a firearm by a felon (§ 12021, subd. (a)(1)) (count seven), one count of forgery (§ 475, subd. (b)) (count eight), and one count of possession of ammunition by a felon (§ 12316, subd. (b)(1) (count nine). It was further alleged Noosbond had served a prior prison term within the meaning of section 667.5, subdivision (b).

After waiving his right to a court or jury trial, his right to confront and cross-examine the witnesses against him, his right to subpoena witnesses and present a defense,

his privilege against self-incrimination and his right to have a jury determine “whether or not there are factors in aggravation to elevate [his] sentence to the high term,” Noosbond pled no contest to first degree burglary as alleged in count one, receiving stolen property as alleged in counts three and four, second degree burglary as alleged in count six, and forgery as alleged in count eight. He admitted having previously served a prison term. Pursuant to a negotiated agreement, the trial court sentenced Noosbond to a term of nine years, eight months in prison, suspended imposition of sentence and placed Noosbond on probation for three years with various terms and conditions including that he be released to Beit T’Shuvah, a narcotics rehabilitation program. Noosbond was given presentence custody credit for 365 days actually served and 54 days of good time/work time, for a total of 419 days. The trial court dismissed the remaining counts.

At proceedings held on November 13, 2007, the evidence established that on June 20, 2007, police officers found Noosbond at the Starlight Inn motel on Winnetka Avenue, a place known to be frequented by narcotics users. Inside Noosbond’s duffel bag was a small wooden box. Inside the box was a “small cylindrical, clear container” filled with an off-white crystal-like substance later determined to be 1.52 grams of a substance containing methamphetamine. Since one of the conditions of Noosbond’s probation was to not “use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with [a] valid prescription, and [to] stay away from

places where users, buyers or sellers congregate,” he was found to be in violation of the terms of his probation.³

The trial court revoked Noosbond’s probation then sentenced Noosbond to the agreed-upon terms of six years in prison for his conviction of first degree burglary and consecutive terms of one-third the mid-term, or eight months, for each of the four remaining crimes: two counts of receiving stolen property, one count of second degree burglary and one count of forgery. Finally, the trial court imposed one year for Noosbond’s admission that he had previously served a prison term within the meaning of section 667.5, subdivision (b). In total, Noosbond was sentenced to nine years, eight months in prison. The court awarded Noosbond a total of 588 days of presentence custody credit consisting of the 419 days he was awarded when he was originally granted probation, plus 147 additional days actually served and 22 days of good time/work time. The trial court imposed a \$200 restitution fine (§ 1202.4, subd. (b)), a \$20 court security fee (§ 1465.8, subd. (a)(1)) and a stayed \$200 parole revocation restitution fine (§ 1202.45).

Noosbond filed a timely notice of appeal on December 11, 2007.

This court appointed counsel to represent Noosbond on appeal on March 14, 2008.

³ On September 10, 2007, the trial court granted Noosbond’s request to proceed in propria persona. However, it is apparent from the record that at subsequent hearings he was represented by counsel.

CONTENTIONS

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice dated November 3, 2008, the clerk of this court advised Noosbond to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied Noosbond's counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

CROSKEY, Acting P. J.

We concur:

KITCHING, J.

ALDRICH, J.